

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 324 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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Gujarat Sheep & Wool Devp. Corp. Ltd

Versus

Jitendrakumar Vithaldas Raja

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Appearance:

Petitioner served

(MR PRADEEP P BHATT) for Respondent No. 1 - absent

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CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 20/06/97

ORAL JUDGEMENT

1. The respondent is the original plaintiff, who filed a Civil Suit No. 96 of 1988, in the Court of Civil Judge, Senior Division, Jamnagar, inter alia, contending that the present petitioner, namely, Gujarat Sheep And Wool Development Corporation Limited were about to terminate his services as Typist illegally and unlawfully and, therefore, prayed for a temporary injunction

restraining the petitioners - defendants from terminating his services. On Exhibit-5 application, the trial court initially granted ad interim injunction and the defendants appeared and filed their reply at Exhibits 10 and 11, inter alia, contending that the respondent was appointed simply as Typist temporarily for work relating to a specific project known as 'Large Scale Sheep Breeding Scheme' sponsored by the Central Government. The said Scheme was temporary. The appointment of the staff was also, therefore, temporary. The appointment was given for 29 days and the Central Government discontinued the scheme and the grant. It was their further case that as a result thereof, plaintiff's services were no longer required and yet attempts were made to provide him some work or other. Ultimately, when no work was available, the services of the plaintiff was terminated w.e.f. 31st January, 1988 and that on the date of the suit the respondent - plaintiff was not in service.

2. It appears that the Civil Judge, Senior Division, Jamnagar, granted the application at Exhibit 5 by order dated 7th April, 1988 but permitted the defendants to take appropriate proceeding to relieve a temporary servant by due process of law. However, the trial court did not grant the temporary injunction as prayed for.

3. It appears that the respondent - plaintiff being aggrieved thereby filed a Civil Misc. Appeal No. 80 of 1988 in the Court of District Judge at Jamnagar and therein also he applied for temporary injunction directing the defendants not to terminate the service. The Extra Assistant Judge, Jamnagar, by order dated 14th February, 1989, allowed the appeal and restrained the petitioners defendants from terminating the services of the respondent - plaintiff till the decision of the suit and further directed to reinstate the respondent - plaintiff in service within one month.

4. Being aggrieved by such order passed by the Extra Assistant Judge, Jamnagar dated 14th February, 1989, the original defendants have filed the present Civil Revision Application.

5. At the time of initial admission, N.B. Patel, J. issued Rule returnable on 17th April, 1989. His Lordship Justice M.B. Shah (as his Lordship then was) passed following order on 6.2.1990:

"It is the say of the learned advocate for  
the petitioners that at present except at Godhna,

there is no other scheme wherein the opponent can be absorbed. Mr. Bhatt, learned advocate appearing on behalf of the opponent states that the opponent is not prepared to go to Godhna because of family circumstances. Hence, operation of the impugned order dated 13.2.1989 passed by the learned Extra Assistant Judge, Jamnagar is stayed till further orders."

6. The effect of the aforesaid order is that the judgment and order which was passed by the learned Extra Assistant Judge, Jamnagar on 14th of February, 1989 requiring the present petitioners - defendants to reinstate the respondent - plaintiff in service, came to be stayed and the plaintiff is thereafter not reinstated in service. Since the date of that order, the respondent plaintiff has not moved the court for vacating such order and admittedly, therefore, he has remained outside service. As the respondent - plaintiff is not in service since 1990, no useful purpose will be served by granting order of injunction and by entertaining this Civil Revision Application at this stage as admittedly since 1990 till today the respondent - plaintiff is outside service and no order could now be passed against the petitioners - defendants to reinstate such employee in service unless respondent - plaintiff ultimately succeeds in the suit. The Civil Revision Application has, therefore in every respect become infructuous as no effective relief could be granted to the respondent - plaintiff. In view thereof, this Civil Revision Application is dismissed. Rule is discharged with no order as to costs.

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